

AMENDED IN ASSEMBLY MAY 2, 2013

AMENDED IN ASSEMBLY APRIL 10, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 921**

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**Introduced by Assembly Member Jones-Sawyer**

February 22, 2013

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An act to add Chapter 4.7 (commencing with Section ~~1080~~ 4080) to Part 3 of Division 2 of the Labor Code, to amend Sections ~~241~~, ~~241.4~~, ~~241~~ and 243 of the Penal Code, and to amend Sections 10601.2 and 10850.4 of the Welfare and Institutions Code, relating to child welfare services.

### LEGISLATIVE COUNSEL'S DIGEST

AB 921, as amended, Jones-Sawyer. Child welfare services.

The California Whistleblower Protection Act prohibits an employee, as defined to include specified employees in the executive and judicial branches of state government, from using his or her official authority or influence for the purpose of intimidating, threatening, coercing, or commanding any person for the purpose of interfering with his or her right to make a protected disclosure of improper governmental activity. The act requires the State Auditor to investigate and report on improper governmental activities, as specified. The act authorizes an employee or applicant for employment who files a written complaint alleging reprisal, retaliation, or similar prohibited acts to also file a copy of the written complaint with the State Personnel Board. The act provides that any person who intentionally engages in acts of reprisal, retaliation, or similar prohibited acts against a state employee or applicant for state employment for having made a protected disclosure, is subject to

punishment for a misdemeanor and liable in an action for civil damages brought by the injured party.

This bill would require, by January 1, 2015, the board of ~~directors~~ *supervisors* of a county to adopt an ordinance that would prohibit the taking of specified actions toward a social worker who is employed by a county child welfare agency, including retaliation against the employee for disclosing or reporting information to the public, an appointed or elected official, or an employee or other official of a governmental, including law enforcement, agency, where the social worker has reasonable cause to believe that the information discloses a policy or practice that endangers the health or well-being of a child, is a violation of a state or federal statute, regulation, or ~~policy~~; *policy*, or is a violation of a county ordinance or policy. The bill would provide that a county is liable for a specified civil penalty for violations of the prohibitions of the ordinance adopted pursuant to this bill.

The bill would also subject to civil liability ~~and a misdemeanor penalty~~ a person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against an employee of a county child welfare agency who discloses or reports information as described in the above provisions.

~~By creating new crimes, this bill would impose a state-mandated local program.~~

Existing law establishes the crime of assault against specified public safety officers, such as peace officers, firefighters, and emergency medical technicians, among others, while engaged in the performance of their duties, as specified. The offense is punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

This bill would expand the scope of the offense to include social workers employed by a county in child welfare, as defined, while engaged in the performance of their duties, as specified.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

~~Existing law establishes the crime of assault against a peace officer engaged in the performance of his or her duties as a member of a police department of a school district and the person committing the offense knows or reasonably should know that the victim is a peace officer engaged in the performance of his or her duties. The offense is punishable by imprisonment in the county jail not exceeding one year or by imprisonment pursuant to specified existing law.~~

~~This bill would expand the scope of the offense to include social workers employed by a county in child welfare, as specified.~~

~~By expanding the scope of an existing crime, this bill would impose a state-mandated local program.~~

Existing law establishes the crime of battery against specified public safety officers, such as peace officers, firefighters, and emergency medical technicians, among others, while engaged in the performance of their duties, as specified. The offense is punishable, except when the victim sustains an injury, by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

This bill would expand the scope of the battery offense described above to include a social worker employed by a county in child welfare, as defined, while engaged in the performance of his or her duty, as specified.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

Under existing law, the State Department of Social Services oversees the administration of county public social services, including child welfare services. Existing law requires the department to establish the California Child and Family Service Review System, in order to review all county child welfare systems.

This bill ~~would~~, in relation to these reviews, *would* require each county to consult with specified stakeholders in developing the county self-assessments and county improvement plans, or any subsequent county self-assessments, as specified. This bill would also require the county improvement plans to include a separately titled provision that lists and provides the rationale for proposed operational improvements that may be implemented at a cost savings to the county or within existing resources. By increasing duties of county officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) This act shall be known as the Child Welfare  
2 Social Worker Empowerment and Foster Child Protection Act.

3 (b) The Legislature finds and declares that, while California  
4 foster children are in foster care, they are uniquely dependent upon  
5 the lawful, efficient, and competent delivery of state and local  
6 government services and implementation of state and federal law.

7 (c) The Legislature further finds and declares that the special  
8 and uniquely vulnerable status of foster children warrants extending  
9 whistleblower protections for state employees to county child  
10 welfare social workers to ensure that each worker, without fear of  
11 retaliation, can advocate for policies that benefit every child and  
12 publicly participate in discussions about each child's wellbeing.

13 (d) The Legislature further finds and declares that county child  
14 welfare social workers who implement state and federal policy  
15 related to the delivery of services and implementation of programs  
16 benefitting foster children should have an avenue to suggest  
17 cost-saving efficiencies in the delivery of services to foster  
18 children, in a fashion that is transparent and accountable to the  
19 public.

20 SEC. 2. Chapter 4.7 (commencing with Section 4080) is added  
21 to Part 3 of Division 2 of the Labor Code, to read:

22  
23 CHAPTER 4.7. COUNTY CHILD WELFARE SOCIAL WORKERS  
24

25 4080. (a) By January 1, 2015, the board of supervisors of a  
26 county shall adopt an ordinance that prohibits the following actions  
27 toward a social worker who is employed by a county child welfare  
28 agency:

29 (1) Making, adopting, or enforcing any rule, regulation, or policy  
30 to prevent the employee from disclosing or reporting information  
31 to the public, an appointed or elected official, or an employee or  
32 other official of a governmental, including law enforcement,  
33 agency, where the social worker has reasonable cause to believe  
34 that the information discloses a policy or practice that endangers  
35 the health or well-being of a child, is a violation of a state or federal

1 statute, regulation, or policy; or is a violation of a county ordinance  
2 or policy.

3 (2) Retaliating against the employee for disclosing or reporting  
4 information to the public, an appointed or elected official, or an  
5 employee or other official of a governmental, including law  
6 enforcement, agency, where the social worker has reasonable cause  
7 to believe that the information discloses a policy or practice that  
8 endangers the health or well-being of a child, is a violation of a  
9 state or federal statute, regulation, or ~~policy~~; *policy*, or is a violation  
10 of a county ordinance or policy.

11 (3) Retaliating against the employee for refusing to participate  
12 in an activity that would result in endangering the health or  
13 well-being of a child, is a violation of a state or federal statute,  
14 regulation, or policy; or is a violation of a county ordinance or  
15 policy.

16 (b) In addition to other penalties or damages, a county that  
17 adopts an ordinance described in subdivision (a) shall be liable for  
18 a civil penalty not exceeding ten thousand dollars (\$10,000) for  
19 each violation of this ordinance, and the employee's reasonable  
20 attorney's fees and costs.

21 (c) In a civil action or administrative proceeding brought  
22 pursuant to the ordinance, once it has been demonstrated by a  
23 preponderance of the evidence that an activity proscribed by this  
24 section was a contributing factor in the alleged prohibited action  
25 against the employee, the employer shall have the burden of proof  
26 to demonstrate by clear and convincing evidence that the alleged  
27 action would have occurred for legitimate, independent reasons  
28 even if the employee had not engaged in activities protected by  
29 this section.

30 (d) Nothing in this section shall be construed to authorize a  
31 social worker employed by a county child welfare agency to  
32 disclose the identity of a child or the case file.

33 (e) For purposes of this section and Section 4081, "county child  
34 welfare agency" includes a county welfare department, child  
35 welfare department, and any other county agency that employs  
36 social workers and is responsible for the placement and supervision  
37 of children and youth in foster care.

38 ~~4081. (a) Any person who intentionally engages in acts of~~  
39 ~~reprisal, retaliation, threats, coercion, or similar acts against an~~  
40 ~~employee of a county child welfare agency in violation of an~~

1 ordinance adopted pursuant to Section 4080 is subject to a fine not  
2 to exceed ten thousand dollars (\$10,000) and imprisonment in the  
3 county jail for a period not to exceed one year. Pursuant to Section  
4 19683, any state civil service employee who intentionally engages  
5 in that conduct shall be disciplined by adverse action as provided  
6 by Section 19572.

7 (b)

8 4081. (a) In addition to any other penalty provided by law, a  
9 person who intentionally engages in acts of reprisal, retaliation,  
10 threats, coercion, or similar acts against an employee of a county  
11 child welfare agency for a violation of an ordinance adopted  
12 pursuant to Section 4080 shall be liable in a civil action for  
13 damages brought against him or her by the injured party. Punitive  
14 damages may be awarded by the court where the acts of the party  
15 alleged to violate Section 4080 are proven to be malicious. Where  
16 liability has been established, the injured party shall also be entitled  
17 to reasonable attorney's fees as provided by law.

18 (e)

19 (b) This section shall not be construed to prevent an appointing  
20 power, manager, or supervisor from taking, directing others to  
21 take, recommending, or approving any personnel action or from  
22 taking or failing to take a personnel action with respect to any  
23 employee of a county child welfare agency if the appointing power,  
24 manager, or supervisor reasonably believes any action or inaction  
25 is justified on the basis of evidence separate and apart from the  
26 fact that the person has made a disclosure protected pursuant to  
27 an ordinance adopted pursuant to Section 4080.

28 (d)

29 (c) Nothing in this chapter or ordinance adopted pursuant to  
30 this chapter shall be construed to diminish the rights, privileges,  
31 or remedies of any employee under any other federal or state law  
32 or under any employment contract or collective bargaining  
33 agreement.

34 SEC. 3. Section 241 of the Penal Code is amended to read:

35 241. (a) An assault is punishable by a fine not exceeding one  
36 thousand dollars (\$1,000), or by imprisonment in the county jail  
37 not exceeding six months, or by both the fine and imprisonment.

38 (b) When an assault is committed against the person of a parking  
39 control officer engaged in the performance of his or her duties,  
40 and the person committing the offense knows or reasonably should

1 know that the victim is a parking control officer, the assault is  
2 punishable by a fine not exceeding two thousand dollars (\$2,000),  
3 or by imprisonment in the county jail not exceeding six months,  
4 or by both the fine and imprisonment.

5 (c) When an assault is committed against the person of a peace  
6 officer, firefighter, emergency medical technician, mobile intensive  
7 care paramedic, lifeguard, process server, traffic officer, code  
8 enforcement officer, animal control officer, social worker employed  
9 by a county in child welfare, or search and rescue member engaged  
10 in the performance of his or her duties, or a physician or nurse  
11 engaged in rendering emergency medical care outside a hospital,  
12 clinic, or other health care facility, and the person committing the  
13 offense knows or reasonably should know that the victim is a peace  
14 officer, firefighter, emergency medical technician, mobile intensive  
15 care paramedic, lifeguard, process server, traffic officer, code  
16 enforcement officer, animal control officer, social worker employed  
17 by a county in child welfare, or search and rescue member engaged  
18 in the performance of his or her duties, or a physician or nurse  
19 engaged in rendering emergency medical care, the assault is  
20 punishable by a fine not exceeding two thousand dollars (\$2,000),  
21 or by imprisonment in a county jail not exceeding one year, or by  
22 both the fine and imprisonment.

23 (d) As used in this section, the following definitions apply:

24 (1) Peace officer means any person defined in Chapter 4.5  
25 (commencing with Section 830) of Title 3 of Part 2.

26 (2) "Emergency medical technician" means a person possessing  
27 a valid course completion certificate from a program approved by  
28 the State Department of Health Care Services for the medical  
29 training and education of ambulance personnel, and who meets  
30 the standards of Division 2.5 (commencing with Section 1797) of  
31 the Health and Safety Code.

32 (3) "Mobile intensive care paramedic" refers to those persons  
33 who meet the standards set forth in Division 2.5 (commencing  
34 with Section 1797) of the Health and Safety Code.

35 (4) "Nurse" means a person who meets the standards of Division  
36 2.5 (commencing with Section 1797) of the Health and Safety  
37 Code.

38 (5) "Lifeguard" means a person who is:

39 (A) Employed as a lifeguard by the state, a county, or a city,  
40 and is designated by local ordinance as a public officer who has a

1 duty and responsibility to enforce local ordinances and  
2 misdemeanors through the issuance of citations.

3 (B) Wearing distinctive clothing which includes written  
4 identification of the person's status as a lifeguard and which clearly  
5 identifies the employing organization.

6 (6) "Process server" means any person who meets the standards  
7 or is expressly exempt from the standards set forth in Section 22350  
8 of the Business and Professions Code.

9 (7) "Traffic officer" means any person employed by a county  
10 or city to monitor and enforce state laws and local ordinances  
11 relating to parking and the operation of vehicles.

12 (8) "Animal control officer" means any person employed by a  
13 county or city for purposes of enforcing animal control laws or  
14 regulations.

15 (9) (A) "Code enforcement officer" means any person who is  
16 not described in Chapter 4.5 (commencing with Section 830) of  
17 Title 3 of Part 2 and who is employed by any governmental  
18 subdivision, public or quasi-public corporation, public agency,  
19 public service corporation, any town, city, county, or municipal  
20 corporation, whether incorporated or chartered, that has  
21 enforcement authority for health, safety, and welfare requirements,  
22 and whose duties include enforcement of any statute, rules,  
23 regulations, or standards, and who is authorized to issue citations,  
24 or file formal complaints.

25 (B) "Code enforcement officer" also includes any person who  
26 is employed by the Department of Housing and Community  
27 Development who has enforcement authority for health, safety,  
28 and welfare requirements pursuant to the Employee Housing Act  
29 (Part 1 (commencing with Section 17000) of Division 13 of the  
30 Health and Safety ~~Code~~; *Code*), the State Housing Law (Part 1.5  
31 (commencing with Section 17910) of Division 13 of the Health  
32 and Safety ~~Code~~; *Code*), the Manufactured Housing Act of 1980  
33 (Part 2 (commencing with Section 18000) of Division 13 of the  
34 Health and Safety ~~Code~~; *Code*), the Mobilehome Parks Act (Part  
35 2.1 (commencing with Section 18200) of Division 13 of the Health  
36 and Safety ~~Code~~; *Code*), and the Special Occupancy Parks Act  
37 (Part 2.3 (commencing with Section 18860) of Division 13 of the  
38 Health and Safety Code).



1 (10) "Parking control officer" means any person employed by  
2 a city, county, or city and county, to monitor and enforce state  
3 laws and local ordinances relating to parking.

4 (11) "Search and rescue member" means any person who is part  
5 of an organized search and rescue team managed by a governmental  
6 agency.

7 (12) "Social worker employed by a county in child welfare"  
8 means a social worker employed by a county welfare department  
9 or child welfare department or any other county agency that  
10 employs social workers and is responsible for the placement and  
11 supervision of children and youth in foster care.

12 ~~SEC. 4. Section 241.4 of the Penal Code is amended to read:~~

13 ~~241.4. An assault is punishable by fine not exceeding one~~  
14 ~~thousand dollars (\$1,000), or by imprisonment in the county jail~~  
15 ~~not exceeding six months, or by both. When the assault is~~  
16 ~~committed against the person of a peace officer engaged in the~~  
17 ~~performance of his or her duties as a member of a police~~  
18 ~~department of a school district pursuant to Section 38000 of the~~  
19 ~~Education Code, or a social worker employed by a county in child~~  
20 ~~welfare as defined in paragraph (12) of subdivision (d) of Section~~  
21 ~~241, and the person committing the offense knows or reasonably~~  
22 ~~should know that the victim is a peace officer engaged in the~~  
23 ~~performance of his or her duties or a social worker employed by~~  
24 ~~a county in child welfare, the offense shall be punished by~~  
25 ~~imprisonment in the county jail not exceeding one year or by~~  
26 ~~imprisonment pursuant to subdivision (h) of Section 1170.~~

27 ~~SEC. 5.~~

28 *SEC. 4.* Section 243 of the Penal Code is amended to read:

29 243. (a) A battery is punishable by a fine not exceeding two  
30 thousand dollars (\$2,000), or by imprisonment in a county jail not  
31 exceeding six months, or by both that fine and imprisonment.

32 (b) When a battery is committed against the person of a peace  
33 officer, custodial officer, firefighter, emergency medical technician,  
34 lifeguard, security officer, custody assistant, process server, traffic  
35 officer, code enforcement officer, animal control officer, social  
36 worker employed by a county in child welfare, or search and rescue  
37 member engaged in the performance of his or her duties, whether  
38 on or off duty, including when the peace officer is in a police  
39 uniform and is concurrently performing the duties required of him  
40 or her as a peace officer while also employed in a private capacity

1 as a part-time or casual private security guard or patrolman, or a  
2 nonsworn employee of a probation department engaged in the  
3 performance of his or her duties, whether on or off duty, or a  
4 physician or nurse engaged in rendering emergency medical care  
5 outside a hospital, clinic, or other health care facility, and the  
6 person committing the offense knows or reasonably should know  
7 that the victim is a peace officer, custodial officer, firefighter,  
8 emergency medical technician, lifeguard, security officer, custody  
9 assistant, process server, traffic officer, code enforcement officer,  
10 animal control officer, social worker employed by a county in  
11 child welfare, or search and rescue member engaged in the  
12 performance of his or her duties, nonsworn employee of a probation  
13 department, or a physician or nurse engaged in rendering  
14 emergency medical care, the battery is punishable by a fine not  
15 exceeding two thousand dollars (\$2,000), or by imprisonment in  
16 a county jail not exceeding one year, or by both that fine and  
17 imprisonment.

18 (c) (1) When a battery is committed against a custodial officer,  
19 firefighter, emergency medical technician, lifeguard, process server,  
20 traffic officer, ~~or animal control officer, or social worker employed~~  
21 ~~by a county in child welfare,~~ engaged in the performance of his or  
22 her duties, whether on or off duty, or a nonsworn employee of a  
23 probation department engaged in the performance of his or her  
24 duties, whether on or off duty, or a physician or nurse engaged in  
25 rendering emergency medical care outside a hospital, clinic, or  
26 other health care facility, and the person committing the offense  
27 knows or reasonably should know that the victim is a nonsworn  
28 employee of a probation department, custodial officer, firefighter,  
29 emergency medical technician, lifeguard, process server, traffic  
30 officer, ~~or animal control officer, or social worker employed by a~~  
31 ~~county in child welfare,~~ engaged in the performance of his or her  
32 duties, or a physician or nurse engaged in rendering emergency  
33 medical care, and an injury is inflicted on that victim, the battery  
34 is punishable by a fine of not more than two thousand dollars  
35 (\$2,000), by imprisonment in a county jail not exceeding one year,  
36 or by both that fine and imprisonment, or by imprisonment pursuant  
37 to subdivision (h) of Section 1170 for 16 months, or two or three  
38 years.

39 (2) When the battery specified in paragraph (1) is committed  
40 against a peace officer engaged in the performance of his or her

1 duties, whether on or off duty, including when the peace officer  
2 is in a police uniform and is concurrently performing the duties  
3 required of him or her as a peace officer while also employed in  
4 a private capacity as a part-time or casual private security guard  
5 or patrolman and the person committing the offense knows or  
6 reasonably should know that the victim is a peace officer engaged  
7 in the performance of his or her duties, the battery is punishable  
8 by a fine of not more than ten thousand dollars (\$10,000), or by  
9 imprisonment in a county jail not exceeding one year or pursuant  
10 to subdivision (h) of Section 1170 for 16 months, or two or three  
11 years, or by both that fine and imprisonment.

12 (d) When a battery is committed against any person and serious  
13 bodily injury is inflicted on the person, the battery is punishable  
14 by imprisonment in a county jail not exceeding one year or  
15 imprisonment pursuant to subdivision (h) of Section 1170 for two,  
16 three, or four years.

17 (e) (1) When a battery is committed against a spouse, a person  
18 with whom the defendant is cohabiting, a person who is the parent  
19 of the defendant's child, former spouse, fiancé, or fiancée, or a  
20 person with whom the defendant currently has, or has previously  
21 had, a dating or engagement relationship, the battery is punishable  
22 by a fine not exceeding two thousand dollars (\$2,000), or by  
23 imprisonment in a county jail for a period of not more than one  
24 year, or by both that fine and imprisonment. If probation is granted,  
25 or the execution or imposition of the sentence is suspended, it shall  
26 be a condition thereof that the defendant participate in, for no less  
27 than one year, and successfully complete, a batterer's treatment  
28 program, as described in Section 1203.097, or if none is available,  
29 another appropriate counseling program designated by the court.  
30 However, this provision shall not be construed as requiring a city,  
31 a county, or a city and county to provide a new program or higher  
32 level of service as contemplated by Section 6 of Article XIII B of  
33 the California Constitution.

34 (2) Upon conviction of a violation of this subdivision, if  
35 probation is granted, the conditions of probation may include, in  
36 lieu of a fine, one or both of the following requirements:

37 (A) That the defendant make payments to a battered women's  
38 shelter, up to a maximum of five thousand dollars (\$5,000).

1 (B) That the defendant reimburse the victim for reasonable costs  
2 of counseling and other reasonable expenses that the court finds  
3 are the direct result of the defendant's offense.

4 For any order to pay a fine, make payments to a battered  
5 women's shelter, or pay restitution as a condition of probation  
6 under this subdivision, the court shall make a determination of the  
7 defendant's ability to pay. In no event shall any order to make  
8 payments to a battered women's shelter be made if it would impair  
9 the ability of the defendant to pay direct restitution to the victim  
10 or court-ordered child support. If the injury to a married person is  
11 caused in whole or in part by the criminal acts of his or her spouse  
12 in violation of this section, the community property shall not be  
13 used to discharge the liability of the offending spouse for restitution  
14 to the injured spouse, required by Section 1203.04, as operative  
15 on or before August 2, 1995, or Section 1202.4, or to a shelter for  
16 costs with regard to the injured spouse and dependents, required  
17 by this section, until all separate property of the offending spouse  
18 is exhausted.

19 (3) Upon conviction of a violation of this subdivision, if  
20 probation is granted or the execution or imposition of the sentence  
21 is suspended and the person has been previously convicted of a  
22 violation of this subdivision and sentenced under paragraph (1),  
23 the person shall be imprisoned for not less than 48 hours in addition  
24 to the conditions in paragraph (1). However, the court, upon a  
25 showing of good cause, may elect not to impose the mandatory  
26 minimum imprisonment as required by this subdivision and may,  
27 under these circumstances, grant probation or order the suspension  
28 of the execution or imposition of the sentence.

29 (4) The Legislature finds and declares that these specified crimes  
30 merit special consideration when imposing a sentence so as to  
31 display society's condemnation for these crimes of violence upon  
32 victims with whom a close relationship has been formed.

33 (5) If a peace officer makes an arrest for a violation of paragraph  
34 (1) of subdivision (e) of this section, the peace officer is not  
35 required to inform the victim of his or her right to make a citizen's  
36 arrest pursuant to subdivision (b) of Section 836.

37 (f) As used in this section:

38 (1) "Peace officer" means any person defined in Chapter 4.5  
39 (commencing with Section 830) of Title 3 of Part 2.

1 (2) "Emergency medical technician" means a person who is  
2 either an EMT-I, EMT-II, or EMT-P (paramedic), and possesses  
3 a valid certificate or license in accordance with the standards of  
4 Division 2.5 (commencing with Section 1797) of the Health and  
5 Safety Code.

6 (3) "Nurse" means a person who meets the standards of Division  
7 2.5 (commencing with Section 1797) of the Health and Safety  
8 Code.

9 (4) "Serious bodily injury" means a serious impairment of  
10 physical condition, including, but not limited to, the following:  
11 loss of consciousness; concussion; bone fracture; protracted loss  
12 or impairment of function of any bodily member or organ; a wound  
13 requiring extensive suturing; and serious disfigurement.

14 (5) "Injury" means any physical injury which requires  
15 professional medical treatment.

16 (6) "Custodial officer" means any person who has the  
17 responsibilities and duties described in Section 831 and who is  
18 employed by a law enforcement agency of any city or county or  
19 who performs those duties as a volunteer.

20 (7) "Lifeguard" means a person defined in paragraph (5) of  
21 subdivision (d) of Section 241.

22 (8) "Traffic officer" means any person employed by a city,  
23 county, or city and county to monitor and enforce state laws and  
24 local ordinances relating to parking and the operation of vehicles.

25 (9) "Animal control officer" means any person employed by a  
26 city, county, or city and county for purposes of enforcing animal  
27 control laws or regulations.

28 (10) "Dating relationship" means frequent, intimate associations  
29 primarily characterized by the expectation of affectional or sexual  
30 involvement independent of financial considerations.

31 (11) (A) "Code enforcement officer" means any person who  
32 is not described in Chapter 4.5 (commencing with Section 830) of  
33 Title 3 of Part 2 and who is employed by any governmental  
34 subdivision, public or quasi-public corporation, public agency,  
35 public service corporation, any town, city, county, or municipal  
36 corporation, whether incorporated or chartered, who has  
37 enforcement authority for health, safety, and welfare requirements,  
38 and whose duties include enforcement of any statute, rules,  
39 regulations, or standards, and who is authorized to issue citations,  
40 or file formal complaints.

1 (B) “Code enforcement officer” also includes any person who  
2 is employed by the Department of Housing and Community  
3 Development who has enforcement authority for health, safety,  
4 and welfare requirements pursuant to the Employee Housing Act  
5 (Part 1 (commencing with Section 17000) of Division 13 of the  
6 Health and Safety ~~Code~~; *Code*), the State Housing Law (Part 1.5  
7 (commencing with Section 17910) of Division 13 of the Health  
8 and Safety ~~Code~~; *Code*), the Manufactured Housing Act of 1980  
9 (Part 2 (commencing with Section 18000) of Division 13 of the  
10 Health and Safety ~~Code~~; *Code*), the Mobilehome Parks Act (Part  
11 2.1 (commencing with Section 18200) of Division 13 of the Health  
12 and Safety ~~Code~~; *Code*), and the Special Occupancy Parks Act  
13 (Part 2.3 (commencing with Section 18860) of Division 13 of the  
14 Health and Safety Code).

15 (12) “Custody assistant” means any person who has the  
16 responsibilities and duties described in Section 831.7 and who is  
17 employed by a law enforcement agency of any city, county, or city  
18 and county.

19 (13) “Search and rescue member” means any person who is part  
20 of an organized search and rescue team managed by a government  
21 agency.

22 (14) “Security officer” means any person who has the  
23 responsibilities and duties described in Section 831.4 and who is  
24 employed by a law enforcement agency of any city, county, or city  
25 and county.

26 (15) “Social worker employed by a county in child welfare”  
27 means a social worker employed by a county welfare department  
28 or child welfare department or any other county agency that  
29 employs social workers and is responsible for the placement and  
30 supervision of children and youth in foster care.

31 (g) It is the intent of the Legislature by amendments to this  
32 section at the 1981–82 and 1983–84 Regular Sessions to abrogate  
33 the holdings in cases such as *People v. Corey*, 21 Cal. 3d 738, and  
34 *Cervantez v. J.C. Penney Co.*, 24 Cal. 3d 579, and to reinstate prior  
35 judicial interpretations of this section as they relate to criminal  
36 sanctions for battery on peace officers who are employed, on a  
37 part-time or casual basis, while wearing a police uniform as private  
38 security guards or patrolmen and to allow the exercise of peace  
39 officer powers concurrently with that employment.

~~SEC. 6.~~

SEC. 5. Section 10601.2 of the Welfare and Institutions Code is amended to read:

10601.2. (a) The State Department of Social Services shall establish, by April 1, 2003, the California Child and Family Service Review System, in order to review all county child welfare systems. These reviews shall cover child protective services, foster care, adoption, family preservation, family support, and independent living.

(b) Child and family service reviews shall maximize compliance with the federal regulations for the receipt of money from Subtitle E (commencing with Section 470) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 670 and following) and ensure compliance with state plan requirements set forth in Subtitle B (commencing with Section 421) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 621 and following).

(c) (1) (A) The California Health and Human Services Agency shall convene a workgroup comprised of representatives of the Judicial Council, the State Department of Social Services, the State Department of Health Care Services, the State Department of Education, the State Department of Justice, any other state departments or agencies the California Health and Human Services Agency deems necessary, the County Welfare Directors Association, the California State Association of Counties, the Chief Probation Officers of California, the California Youth Connection, and representatives of California tribes, interested child advocacy organizations, researchers, and foster parent organizations. The workgroup shall establish a workplan by which child and family service reviews shall be conducted pursuant to this section, including a process for qualitative peer reviews of case information.

(B) At a minimum, in establishing the workplan, the workgroup shall consider any existing federal program improvement plans entered into by the state pursuant to federal regulations, the outcome indicators to be measured, compliance thresholds for each indicator, timelines for implementation, county review cycles, uniform processes, procedures and review instruments to be used, a corrective action process, and any funding or staffing increases needed to implement the requirements of this section. The agency shall broadly consider collaboration with all entities to allow the

1 adequate exchange of information and coordination of efforts to  
2 improve outcomes for foster youth and families.

3 (2) In developing county self-assessments and county  
4 improvement plans pursuant to this section, or any subsequent  
5 county self-assessments pursuant to this section, each county shall  
6 consult with stakeholders, including, but not limited to, county  
7 child welfare agencies and probation agency staff at all levels,  
8 current and former foster children, children's attorneys, and foster  
9 care providers. The county shall consult with at least one county  
10 child welfare worker named by the bargaining unit representing  
11 children's social workers.

12 (d) (1) The California Child and Family Service Review System  
13 outcome indicators shall be consistent with the federal child and  
14 family service review measures and standards for child and family  
15 outcomes and system factors authorized by Subtitle B (commencing  
16 with Section 421) and Subtitle E (commencing with Section 470)  
17 of Title IV of the federal Social Security Act and the regulations  
18 adopted pursuant to those provisions (Parts 1355 to 1357, inclusive,  
19 of Title 45 of the Code of Federal Regulations).

20 (2) During the first review cycle pursuant to this section, each  
21 county shall be reviewed according to the outcome indicators  
22 established for the California Child and Family Service Review  
23 System.

24 (3) For subsequent reviews, the workgroup shall consider  
25 whether to establish additional outcome indicators that support the  
26 federal outcomes and any program improvement plan, and promote  
27 good health, mental health, behavioral, educational, and other  
28 relevant outcomes for children and families in California's child  
29 welfare services system.

30 (4) The workgroup shall convene as necessary to update the  
31 outcome indicators described in paragraph (1).

32 (5) The county improvement plans developed pursuant to this  
33 section that are approved by the county board of supervisors shall  
34 include a separately titled provision that lists and provides the  
35 rationale for proposed operational improvements identified during  
36 the stakeholder process described in paragraph (2) of subdivision  
37 (c) that may be implemented at a cost savings to the county or  
38 within existing county resources.

39 (e) The State Department of Social Services shall identify and  
40 promote the replication of best practices in child welfare service



1 delivery to achieve the measurable outcomes established pursuant  
2 to subdivision (d).

3 (f) Notwithstanding Section 10231.5 of the Government Code,  
4 the State Department of Social Services shall provide information  
5 to the Assembly Committee on Budget and the Senate Committee  
6 on Budget and Fiscal Review and appropriate legislative policy  
7 committees annually, beginning with the 2002–03 fiscal year, on  
8 all of the following:

9 (1) The department’s progress in planning for the federal child  
10 and family service review to be conducted by the United States  
11 Department of Health and Human Services and, upon completion  
12 of the federal review, the findings of that review, the state’s  
13 response to the findings, and the details of any program  
14 improvement plan entered into by the state.

15 (2) The department’s progress in implementing the California  
16 child and family service reviews, including, but not limited to, the  
17 timelines for implementation, the process to be used, and any  
18 funding or staffing increases needed at the state or local level to  
19 implement the requirements of this section.

20 (3) The findings and recommendations for child welfare system  
21 improvements identified in county self-assessments and county  
22 system improvement plans, including information on common  
23 statutory, regulatory, or fiscal barriers identified as inhibiting  
24 system improvements, any recommendations to overcome those  
25 barriers, and, as applicable, information regarding the allocation  
26 and use of the moneys provided to counties pursuant to subdivision  
27 (i).

28 (g) Effective April 1, 2003, the existing county compliance  
29 review system shall be suspended to provide to the State  
30 Department of Social Services sufficient lead time to provide  
31 training and technical assistance to counties for the preparation  
32 necessary to transition to the new child and family service review  
33 system.

34 (h) Beginning January 1, 2004, the department shall commence  
35 individual child and family service reviews of California counties.  
36 County child welfare systems that do not meet the established  
37 compliance thresholds for the outcome measures that are reviewed  
38 shall receive technical assistance from teams made up of state and  
39 peer-county administrators to assist with implementing best

1 practices to improve their performance and make progress toward  
2 meeting established levels of compliance.

3 (i) (1) To the extent that funds are appropriated in the annual  
4 Budget Act to enable counties to implement approaches to  
5 improving their performance on the outcome indicators under this  
6 section, the department, in consultation with counties, shall  
7 establish a process for allocating the funds to counties.

8 (2) The allocation process shall take into account, at a minimum,  
9 the extent to which the proposed funding would be used for  
10 activities that are reasonably expected to help the county make  
11 progress toward the outcome indicators established pursuant to  
12 this section, and the extent to which county funding for the Child  
13 Abuse, Prevention and Treatment program is aligned with the  
14 outcome indicators.

15 (3) To the extent possible, a county shall use funds in a manner  
16 that enables the county to access additional federal, state, and local  
17 funds from other available sources. However, a county's ability  
18 to receive additional matching funds from these sources shall not  
19 be a determining factor in the allocation process established  
20 pursuant to this subdivision.

21 (4) The department shall provide information to the appropriate  
22 committees of the Legislature on the process established pursuant  
23 to this subdivision for allocating funds to counties.

24 (j) (1) Counties shall continue to be responsible for and  
25 accountable to the department for child welfare program  
26 performance measures, including all of the following:

27 (A) The outcome and systemic factor measures contained in the  
28 federal Department of Health and Human Services Child and  
29 Family Services Review Procedures Manual, Appendix B, Index  
30 of Outcomes and Systemic Factors, and Associated Items and Data  
31 Indicators, issued pursuant to Sections 1355.34(b) and 1355.34(c)  
32 of Title 45 of the Code of Federal Regulations.

33 (B) Information and other requirements necessary for the  
34 California Child and Family Service Review System, as required  
35 pursuant to this section.

36 (C) Monthly caseworker visits with a child in care.

37 (D) Timeliness to begin an investigation of allegations of child  
38 abuse or neglect.

39 (E) Notwithstanding the rulemaking provisions of the  
40 Administrative Procedure Act (Chapter 3.5 (commencing with

1 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
2 Code), other performance measures resulting from new federal  
3 mandates or court decrees as specified in an all-county letter issued  
4 by the department.

5 (2) The department shall monitor, on an ongoing basis, county  
6 performance on the measures specified in paragraph (1).

7 (3) At least once every five years, the department shall conduct  
8 a comprehensive review of county performance on the measures  
9 specified in paragraph (1).

10 (4) (A) The department shall periodically update the process  
11 guides utilized by counties to prepare the self assessments and  
12 system improvement plans to promote implementation and  
13 evaluation of promising practices and use of data.

14 (B) The process guides also shall include, but not be limited to,  
15 both of the following:

16 (i) County evaluation of demographics for the children and  
17 families served and effectiveness of the system improvement  
18 activities for these populations.

19 (ii) A description of the process by which the department and  
20 counties shall develop mutually agreed upon performance targets  
21 for improvement.

22 (5) The department, in consultation with counties, shall develop  
23 a process for resolving any disputes regarding the establishment  
24 of appropriate targets pursuant to the process provided in paragraph  
25 (4).

26 (6) A county shall submit an update to the department, no less  
27 than annually, on its progress in achieving improvements from the  
28 county's baseline for the applicable measure. The department may  
29 require a county that has not met its performance targets to submit  
30 and implement a corrective action plan, as determined by the  
31 director.

32 (k) Beginning in the 2011–12 fiscal year, and for each fiscal  
33 year thereafter, funding and expenditures for programs and  
34 activities required under this section shall be in accordance with  
35 the requirements provided in Sections 30025 and 30026.5 of the  
36 Government Code.

37 ~~SEC. 7.~~

38 *SEC. 6.* Section 10850.4 of the Welfare and Institutions Code  
39 is amended to read:

1 10850.4. (a) Within five business days of learning that a child  
2 fatality has occurred in the county and that there is a reasonable  
3 suspicion that the fatality was caused by abuse or neglect, the  
4 custodian of records for the county child welfare agency, upon  
5 request, shall release the following information:

- 6 (1) The age and gender of the child.
- 7 (2) The date of death.
- 8 (3) Whether the child was in foster care or in the home of his  
9 or her parent or guardian at the time of death.
- 10 (4) Whether an investigation is being conducted by a law  
11 enforcement agency or the county child welfare agency.

12 (b) All cases in which abuse or neglect leads to a child's death  
13 shall be subject to the disclosures required in subdivision (c). Abuse  
14 or neglect is determined to have led to a child's death if one or  
15 more of the following conditions are met:

- 16 (1) A county child protective services agency determines that  
17 the abuse or neglect was substantiated.
- 18 (2) A law enforcement investigation concludes that abuse or  
19 neglect occurred.
- 20 (3) A coroner or medical examiner concludes that the child who  
21 died had suffered abuse or neglect.

22 (c) Upon completion of the child abuse or neglect investigation  
23 into the child's death, as described in subdivision (b), the following  
24 documents from the juvenile case file shall be released by the  
25 custodian of records upon request, subject to the redactions set  
26 forth in subdivision (e):

- 27 (1) All of the information in subdivision (a).
- 28 (2) For cases in which the child's death occurred while living  
29 with a parent or guardian, all previous referrals of abuse or neglect  
30 of the deceased child while living with that parent or guardian  
31 shall be disclosed along with the following documents:
  - 32 (A) The emergency response referral information form and the  
33 emergency response notice of referral disposition form completed  
34 by the county child welfare agency relating to the abuse or neglect  
35 that caused the death of the child.
  - 36 (B) Any cross reports completed by the county child welfare  
37 agency to law enforcement relating to the deceased child.
  - 38 (C) All risk and safety assessments completed by the county  
39 child welfare services agency relating to the deceased child.

1 (D) All health care records of the deceased child, excluding  
2 mental health records, related to the child's death and previous  
3 injuries reflective of a pattern of abuse or neglect.

4 (E) Copies of police reports about the person against whom the  
5 child abuse or neglect was substantiated.

6 (3) For cases in which the child's death occurred while the child  
7 was in foster care, the following documents in addition to those  
8 specified in paragraphs (1) and (2) generated while the child was  
9 living in the foster care placement that was the placement at the  
10 time of the child's death:

11 (A) Records pertaining to the foster parents' initial licensing  
12 and renewals and type of license or licenses held, if in the case  
13 file.

14 (B) All reported licensing violations, including notices of action,  
15 if in the case file.

16 (C) Records of the training completed by the foster parents, if  
17 in the case file.

18 (d) The documents listed in subdivision (c) shall be released to  
19 the public by the custodian of records within 10 business days of  
20 the request or the disposition of the investigation, whichever is  
21 later.

22 (e) (1) Prior to releasing any document pursuant to subdivision  
23 (c), the custodian of records shall redact the following information:

24 (A) The names, addresses, telephone numbers, ethnicity,  
25 religion, or any other identifying information of any person or  
26 institution, other than the county or the State Department of Social  
27 Services, that is mentioned in the documents listed in paragraphs  
28 (2) and (3) of subdivision (c).

29 (B) Any information that would, after consultation with the  
30 district attorney, jeopardize a criminal investigation or proceeding.

31 (C) Any information that is privileged, confidential, or not  
32 subject to disclosure pursuant to any other state or federal law.

33 (2) (A) The State Department of Social Services shall  
34 promulgate a regulation listing the laws described in subparagraph  
35 (C) of paragraph (1) and setting forth standards governing  
36 redactions.

37 (B) Notwithstanding the rulemaking provisions of the  
38 Administrative Procedure Act (Chapter 3.5 (commencing with  
39 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
40 Code), until emergency regulations are filed with the Secretary of

1 State, the State Department of Social Services may implement the  
2 changes made to Section 827 and this section at the 2007–08  
3 Regular Session of the Legislature through all-county letters or  
4 similar instructions from the director. The department shall adopt  
5 as emergency regulations, as necessary to implement those changes,  
6 no later than January 1, 2009.

7 (C) The adoption of regulations pursuant to this paragraph shall  
8 be deemed to be an emergency necessary for the immediate  
9 preservation of the public peace, health, safety, or general welfare.  
10 The emergency regulations authorized by this section shall be  
11 exempt from review by the Office of Administrative Law. The  
12 emergency regulations authorized by this section shall be submitted  
13 for filing with the Secretary of State and shall remain in effect for  
14 no more than 180 days, by which time the final regulations shall  
15 be adopted.

16 (f) Upon receiving a request for the documents listed in  
17 subdivision (c), the custodian of records shall notify and provide  
18 a copy of the request upon counsel for any child who is directly  
19 or indirectly connected to the juvenile case file. If counsel for a  
20 child, including the deceased child or any sibling of the deceased  
21 child, objects to the release of any part of the documents listed in  
22 paragraphs (2) and (3) of subdivision (c), they may petition the  
23 juvenile court for relief to prevent the release of any document or  
24 part of a document requested pursuant to paragraph (2) of  
25 subdivision (a) of Section 827.

26 (g) Documents from the juvenile case file, other than those listed  
27 in paragraphs (2) and (3) of subdivision (c), shall only be disclosed  
28 upon an order by the juvenile court pursuant to Section 827.

29 (h) Once documents pursuant to this section have been released  
30 by the custodian of records, the State Department of Social  
31 Services, the county welfare department or agency, and any county  
32 child welfare social worker, may comment on the case within the  
33 scope of the release.

34 (i) Information released by a custodian of records consistent  
35 with the requirements of this section does not require prior notice  
36 to any other individual.

37 (j) Each county welfare department or agency shall notify the  
38 State Department of Social Services of every child fatality that  
39 occurred within its jurisdiction that was the result of child abuse  
40 or neglect. Based on these notices and any other relevant

1 information in the State Department of Social Services' possession,  
2 the department shall annually issue a report identifying the child  
3 fatalities and any systemic issues or patterns revealed by the notices  
4 and other relevant information. The State Department of Social  
5 Services, after consultation with interested stakeholders, shall  
6 provide instructions by an all-county letter regarding the procedure  
7 for notification.

8 (k) For purposes of this section, the following definitions apply:

9 (1) "Child abuse or neglect" has the same meaning as defined  
10 in Section 11165.6 of the Penal Code.

11 (2) "Custodian of records," for the purposes of this section and  
12 paragraph (2) of subdivision (a) of Section 827, means the county  
13 welfare department or agency.

14 (3) "Juvenile case files" or "case files" include any juvenile  
15 court files, as defined in Rule 5.552 of the California Rules of  
16 Court, and any county child welfare department or agency or State  
17 Department of Social Services records regardless of whether they  
18 are maintained electronically or in paper form.

19 (4) "Substantiated" has the same meaning as defined in Section  
20 11165.12 of the Penal Code.

21 (l) A person disclosing juvenile case file information as required  
22 by this section shall not be subject to suit in civil or criminal  
23 proceedings for complying with the requirements of this section.

24 (m) This section shall apply only to deaths that occur on or after  
25 January 1, 2008.

26 (n) Nothing in this section shall require a custodian of records  
27 to retain documents beyond any date otherwise required by law.

28 (o) Nothing in this section shall be construed as requiring a  
29 custodian of records to obtain documents not in the case file.

30 ~~SEC. 8.~~

31 *SEC. 7.* No reimbursement is required by this act pursuant to  
32 Section 6 of Article XIII B of the California Constitution for certain  
33 costs that may be incurred by a local agency or school district  
34 because, in that regard, this act creates a new crime or infraction,  
35 eliminates a crime or infraction, or changes the penalty for a crime  
36 or infraction, within the meaning of Section 17556 of the  
37 Government Code, or changes the definition of a crime within the  
38 meaning of Section 6 of Article XIII B of the California  
39 Constitution.

1     However, if the Commission on State Mandates determines that  
2     this act contains other costs mandated by the state, reimbursement  
3     to local agencies and school districts for those costs shall be made  
4     pursuant to Part 7 (commencing with Section 17500) of Division  
5     4 of Title 2 of the Government Code.

O